

**Procedures and Requirements for filing a Worthless Check Complaint with the
Office of the State Attorney's Office, Broward County, Florida**
Phone **954-831-8444**

1. The check **must** have been accepted in Broward County, Florida or mailed from Broward County. (if mailed the envelope with the post-marked is needed)
2. The check must **NOT** have been postdated.
3. The Check Writer must **NOT** have asked the acceptor to HOLD or DELAY DEPOSIT of the check, even for a very brief period of time.
4. There must not have been any reason for the acceptor to believe the check would not be honored.
5. Check must be stamped with the bank processing date and reason check was returned. (We accept NSF, Account Closed and Stop Payment check complaints only; any other reason must be explained in writing by the Check Writer's banks)
6. Sufficient information is required to identify Check Writer and must be written on the check at the time it is accepted: full name, sex, height, date of birth, race, home address, home, business telephone numbers, employer, copy of driver license, driver license number/identification card, state of issuance and membership card number.
7. This office strongly recommends that business establish procedures to ensure proof of identification such as a photocopying of driver license with check. Failure to do so may result in declining prosecution due to insufficient evidence.
8. Additional identifying information may be required in order to issue a summons: eye and hair color, social security number, weight, unusual physical features, passport number/country, business address.
9. Person accepting the check should initial or note his/her Employee ID number (if applicable) when it is accepted.
10. Person accepting the check from the Check Writer, (or some other witness) must be able to appear in court and positively identify the defendant or at least testify about a procedure used to ensure proper identification such as the attachment of photocopy of picture identification card or surveillance cameras.
11. We must receive the complaint through the method of case presentation listed below, and as soon as the time limitations on dishonored check letters have expired and at least (4) four months prior to the expiration of the statute of limitations indicated below:

Amount/Type of Check	Degree of Check	Method of Presentation	Statute of Limitations
\$150.00 or more <u>and</u> good or services are rendered at the same time or after the check is received.	3 rd degree felony	Felony, through Detective or Law Enforcement Officer from the Jurisdiction check was received or mailed from	3 years from the date check was written or delivered
Less than \$150.00 or goods and services are delivered rendered before the check is received. (in which case, the amount is irrelevant)	1 st degree misdemeanor	Misdemeanor	2 years from the date the check was written or
Less than \$150.00 on which payment has been stopped, or involving any amount of pre-existing debt)	2 nd degree misdemeanor	Misdemeanor	1 year from the date the check was written or delivered

In certain instances you may wish to proceed civilly, see section 68.065, Florida Statute. In a civil action the maker of the check could be liable for triple the amount of the check, not to mention collection fees.

If Maker of check offers restitution, do not agree to drop charges. The State may still pursue prosecution even if restitution is paid in part or in full.

MISDEMEANOR WORTHLESS CHECK

is defined as a check returned to you from the bank stamped, "Insufficient Funds", "Stopped Payment" and/or "Account Closed" and goods or services are rendered before the check is received, in which case the amount of the check is irrelevant.

Wages, rent or any other contractual obligation usually are classified as a misdemeanor in the State of Florida. If your complaint is a misdemeanor:

1. No Police Report is necessary but always welcomed.
2. A dishonored check letter (Copy attached hereto), **must** be mailed by certified or registered, return receipt requested to the Check Writer of an Insufficient Fund worthless check per Florida Statute 832.27(1)(a). Your letter must be identical in wording to the attached letter and addressed to the Check Writer. (This letter is not required for Account Closed or Stop Payment checks)

According to the Statute, this letter must be sent to the address of the Check Writer as shown on the check or to be a better, more current address, given at the time the check is issued. If a better address is discovered later, a copy of the letter should be sent to that address as well. (Keep a copy of all letter(s)).

3. If the letter is returned to a you as unclaimed or if reimbursement is not received within seven (7) days of the signed return receipt, complete the "Worthless Check Affidavit" attached hereto. (Please write legibly in ink or type) Fill in all blanks and provide all requested information. If more than one person accepted checks from the same Check Writer, a separate affidavit must be completed by each acceptor.
4. Have the affidavits **NOTARIZED** by a Notary Public. (Under the penalties of perjury, your signature on the affidavit will declare that the facts stated in it are true pursuant to F.S. 92.525(2).
5. You can contact the State Attorney's Office to schedule an appointment or mail the completed notarized affidavits, along with a copy of the front and back of the check, worthless check letter, certified or registered return receipt or unopened envelope, copies of any contracts or invoices and Identification from yourself, such as a Driver License and/or State Identification Card, to the State Attorney's Office, at the address listed on the form attached hereto, indicating "Attention: Case Filing". (Business with membership or check cashing cards must provide copy of card and/or photograph of suspect and application records)
6. We do not guarantee restitution; the objective of the Office of the State Attorney is to prosecute those who violate criminal statutes.

MISDEMEANOR WORTHLESS CHECK (CONT'D)

7. It takes from approximately (3) three weeks to (2) two months for bank records to be received from the proper bank. Some banks are faster than others. Please contact this office within 4 weeks of the filing of your complaint for the status of your case.
8. If you are a retailer, please provide an affidavit from each person who received the worthless check. This affidavit should include details of the exchange and identification of the suspect.
9. Prior to presenting a complaint about a dishonored check to the Office of the State Attorney, you may place or assign the debt from the bad check to a private debt collector and any cost of this collection can be added to the cost of collecting this bad debt.
10. The debt collector shall have 90 days from the date of placement of the debt for collection. Upon the expiration of the ninety (90) days, and any extensions, you may present a complaint to for our office for interest, keeping in mind the applicable statut of limitations.
11. The standard that the State's Attorney's Office follows is mandated by the Florida Statutes and Case Law when deciding to file a criminal complaint is whether there is a reasonable likelihood of conviction before a jury requiring proof beyond a reasonable doubt.
12. If this office decides to file a criminal complaint, a Court Case Number and Judge will be assigned. A summons (notice to appear in court) will be issued by the Clerk of the Court to be served on the defendant by the Sheriff. (The Defendant will not usually be arrested. The case may take an extended period of time before resolution and it is the responsibility of the victim and/or witnesses to keep this office abreast of current telephone numbers and addresses.
13. A defendant who fails to appear for a court date after being charged with a Worthless Check charge, resulting in a Judge issuing a valid capias (warrant) and who a Judge issues a capias, shall have his or her Driver License suspended or revoked.

FELONY WORTHLESS CHECK

is defined as a check returned to you from the bank stamped, "Insufficient Funds", "Stopped Payment", Account Closed" for an amount of \$150.00 or more given at the same time in exchange for goods or services or the goods or services are rendered after the check is received.

1. Follow Procedure Numbered two (2) as listed above.
2. Initiate a police report with your local Police Department or Sheriff's Department in the jurisdiction in which the check was passed/received.
3. That Police Department or Sheriff's Department will investigate, the matter and if sufficient evidence or a crime is obtained, they will present your case to the State Attorney's Office.

A check for any amount written that is a forgery or counterfeit would be considered for review as a felony.

STOP PAYMENT CHECKS

It is a crime in Florida to stop payment on a check with intent to defraud. However, it is usually difficult to prove "intent to defraud".

The facts of the case must establish, beyond a reasonable doubt, that the purpose of the "Stop Payment" was fraudulent when the check was issued, as well as when payment was stopped, and must exclude the reasonable possibility of mere dissatisfaction with goods or services received on the part of the person who wrote the check.

In a criminal case, reasonable doubt on this issue is resolved in favor of the person who wrote the check and will preclude in filing of criminal charges. The only legal recourse in such stop-payment cases is in the civil courts, either in County or Circuit Court, depending on the amount of the check. You should contact your Attorney for further information.

If this is a misdemeanor complaint, follow procedures for Misdemeanor Worthless Check complaint and if a felony complaint, follow procedures under Felony Worthless Check.

WORTHLESS CHECK AFFIDAVIT INSTRUCTIONS

Please read carefully and complete only area applicable to you.

1. Complete one affidavit for each check/document.
2. Answer every question. Criminal cases will not be filed with incomplete or illegible affidavits.
3. Identification blocks and Endorsement blocks should be read carefully and marked appropriately.
4. Facts not covered in the questionnaire portion of the affidavit should be noted on the last page.
5. All affidavits **MUST BE NOTARIZED.**
6. Attach a legible copy of all applicable items, clearly showing the front and back of the document(s), suspect photograph, invoices, bills, receipts, copy of driver license, bank card, bank surveillance photo(s), account history sheets, account signature cards and customer forgery affidavit, any overnight mail acceptance cards with name of person who signed for merchandise, to the affidavit. (If business has membership or check cashing card, provide copy of card and/or photograph and application records.)
7. Make a copy of the affidavit for your records. The original will be given to the Police Officer and or State Attorney's Office.

Please include the following information in your affidavit:

1. Details about the transaction
2. How and where the check was received
3. Complete description and identity of individual who passed the check
4. Indicate if the person passing the check is different then the suspect listed on the suspect page
5. All information about the goods being exchanged for the check
6. All conversations concerning the quality of the goods made by the suspect before or after check was passed
7. Any other information that you feel is pertinent to this transaction

NOTICE OF DISHONORED CHECK

Florida Statute 832

To: _____

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Dear _____:

You are hereby notified that a check, numbered _____ issued by you on _____ drawn upon _____, and payable to _____, has been dishonored.

Pursuant to Florida law you have seven (7) days from the date of this notice to tender payment of the full amount of such check plus a service charge of \$25.00, if the face value of the check does not exceed \$50.00, or \$30.00, if the face value exceeds \$50.00, but not exceed \$300.00, or \$40.00, if the face value exceeds \$300.00 or an amount of up to five (5) percent of the face amount of the check, whichever is greater, the total amount due being \$_____and _____cents.

Unless this amount is paid in full within the time specified above, the holder of such check may turn over this dishonored check and all other available information relating to this incident to the State Attorney for criminal prosecution.

You may be additionally liable in a civil action for triple the amount of the check, but in no case less than \$50.00, together with the amount of the check, a service charge, court costs, reasonable attorney fees and incurred bank fees, as provided in s. 68.065.

Dated this _____ day of _____ 20_____

Yours truly,

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NOTICE OF DISHONORED CHECK

Florida Statute 832.07(1)(a)

To: _____

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Dear _____:

You are hereby notified that a check, numbered _____ issued by you on _____ drawn upon, and payable to _____, has been dishonored.

Pursuant to Florida law you have fifteen (15) days from the date of this notice to tender payment of the full amount of such check plus a service charge of \$25.00, if the face value of the check does not exceed \$50.00, or \$30.00, if the face value exceeds \$50.00, but not exceed \$300.00, or \$40.00, if the face value exceeds \$300.00 or an amount of up to five (5) percent of the face amount of the check, whichever is greater, the total amount due being \$_____ and _____ cents.

Unless this amount is paid in full within the time specified above, the holder of such check may turn over this dishonored check and all other available information relating to this incident to the State Attorney for criminal prosecution.

You may be additionally liable in a civil action for triple the amount of the check, but in no case less than \$50.00, together with the amount of the check, a service charge, court costs, reasonable attorney fees and incurred bank fees.

Dated this _____ day of _____ 20_____

Yours truly,

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CITIZEN AFFIDAVIT

I, _____, accepted the below listed document at _____
_____ on this date: _____, and can identify
in a trial and photo lineup _____ as the person who gave me the
Document. Type of document: _____.

MERCHANT AFFIDAVIT

I, _____, employee for _____
located at _____ Zip code: _____
accepted the check listed below, while located at _____
Zip code: _____

VICTIM / CHECK PAYEE

Name: _____
Company Name (if applicable): _____
Address: _____
City: _____ State: _____ Zip code: _____
Day Time Telephone: _____ Race: _____ Sex: _____
Collection Agency: _____

CHECK WRITER INFORMATION

Full Name (as on check): _____
Address(s): _____
City: _____ State: _____ Zip code: _____
Home Phone: _____ Other Phone: _____
Alias(s) Names: _____ Race: _____ Sex: _____ Age: _____
Date of Birth: _____ Height: _____ Weight: _____ Color Hair: _____
Social Security: _____ Passport #: _____
Driver's License: _____ State: _____
Unusual Features: _____
Employer: _____ Address: _____

How and where did you obtain the Check Writer's identification?:

Driver's License Police Report Check Cashing Card Photograph
 Membership Card Other/Explain:

CHECK INFORMATION

Amount of the Check:		Check Number:	
Date of Check:		Date Check Given:	
Exact Goods/Services Received for check:			
Below are some examples of Goods and Services, this is not an all-exclusive list: Cash, Wages, Rent, Merchandise, Initial Deposit/Rent, Payment on Account or Debt, Services/Note Type (e.g. medical, legal, installation, repair).			
Date Goods/Services Received:			
First Date Bank Processed Check:			
When did you learn check was no good?:			
Reason check returned:			
Type and degree of offense:			
1. Was the check Postdated?	<input type="checkbox"/> No	<input type="checkbox"/> Yes	
2. Were you asked to hold or delay deposit of the check?	<input type="checkbox"/> No	<input type="checkbox"/> Yes	
3. Was the check delivered personally by Check writer? If delivered by a person other than the Check writer, give the name and address. Also, provide a notarized statement from that person.	Other Person: _____ Address: _____ _____ Other Information: _____		
4. Did you write the Check writer ID information, required by F.S. 832.07(2)(B), on the check when you accepted?	<input type="checkbox"/> No	<input type="checkbox"/> Yes	
5. Did you compare the picture on the identification to the person?	<input type="checkbox"/> No	<input type="checkbox"/> Yes	
6. Are they positively the same person?	<input type="checkbox"/> No	<input type="checkbox"/> Yes	
7. Does your business establishment have other means of identifying the suspect? If yes, what?	<input type="checkbox"/> No	<input type="checkbox"/> Yes, _____	
8. Did this person use any other means to identify himself? If so, what?	<input type="checkbox"/> No	<input type="checkbox"/> Yes, _____	
9. Would you be able to identify the person issuing the check from a police line-up?	<input type="checkbox"/> No	<input type="checkbox"/> Yes	
10. Can you identify the Check writer?	<input type="checkbox"/> No	<input type="checkbox"/> Yes	
11. Did Check writer have a check cashing/membership card with your business?	<input type="checkbox"/> No	<input type="checkbox"/> Yes	

12. Did you initial or note your business ID name and number on the check?	<input type="checkbox"/> No <input type="checkbox"/> Yes
13. Was the check mailed?	<input type="checkbox"/> No <input type="checkbox"/> Yes
14. Was the Check sent by an overnight service? (UPS, Post office, Federal Express) Provide receipt indicating person who excepted.	<input type="checkbox"/> No <input type="checkbox"/> Yes, _____
15. Did the Check writer sign and order/contract?	<input type="checkbox"/> No <input type="checkbox"/> Yes
16. Was the check issued as payment of an existing debt.	<input type="checkbox"/> No <input type="checkbox"/> Yes
17. Is there an invoice or receipt? (attach a copy)	<input type="checkbox"/> No <input type="checkbox"/> Yes
18. Was a certified letter mailed to the Check writer?	<input type="checkbox"/> No <input type="checkbox"/> Yes
19. Have you filed a complaint affidavit for worthless check before on this person?	<input type="checkbox"/> No <input type="checkbox"/> Yes
20. Did you witness the person fill out the payee, amount, and date?	<input type="checkbox"/> No <input type="checkbox"/> Yes
21. Did you witness the person fill out the payee, amount, and date?	<input type="checkbox"/> No <input type="checkbox"/> Yes
22. Did you witness the person sign the front of the check when issued to you?	<input type="checkbox"/> No <input type="checkbox"/> Yes
23. Did you witness the person endorse the check? (signature on the back)	<input type="checkbox"/> No <input type="checkbox"/> Yes
24. If yes, please provide overnight express service receipt indicating person and company that accepted package.	<input type="checkbox"/> No <input type="checkbox"/> Yes, _____

WITNESS(S)

Person who accepted the check and who is signing this affidavit:

Name: _____		
Address: _____		
City: _____	State: _____	Zipcode: _____
Home Telephone: _____	Business Telephone: _____	
Employer: _____	Occupation: _____	
Can this person identify the Check presenter? <input type="checkbox"/> Yes <input type="checkbox"/> No		

Person who authorized acceptance of the check:

Name: _____		
Address: _____		
City: _____	State: _____	Zipcode: _____
Home Telephone: _____	Business Telephone: _____	
Employer: _____	Occupation: _____	

If victim is a business, please list person responsible for original records, (“records custodian”), which may be needed for court (e.g. check cashing, invoice or contract, membership card and photograph, etc.):

Name: _____		
Address: _____		
City: _____	State: _____	Zipcode: _____
Home Telephone: _____	Business Telephone: _____	
Can testify to: _____		

Other Witness(s):

Name: _____		
Address: _____		
City: _____	State: _____	Zipcode: _____
Home Telephone: _____	Business Telephone: _____	
Employer: _____	Occupation: _____	

I the undersigned, under oath, state that the named Check writer did draw, make, utter or deliver a worthless check, the original submitted with affidavit, and that my answers to all questions in this affidavit are true and correct.

SWORN TO AND SUBSCRIBED before me, this _____ day of _____, A.D. _____, by the Affiant herein,

who is personally known to me who produced the following identification: _____

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Notary Public, State of Florida (Seal)

Commission Expires

If mail, include the following: (form attached hereto list address for the Office of the State Attorney)

- | | |
|--|--|
| <input type="checkbox"/> Notarized check affidavit | <input type="checkbox"/> Copy of front & back of check |
| <input type="checkbox"/> Copy of Worthless check letter | <input type="checkbox"/> Copy of return receipt or unopened returned envelope |
| <input type="checkbox"/> Copy of Contracts/invoices | <input type="checkbox"/> Copy of State identification card or driver's license |
| <input type="checkbox"/> Copy of Membership card/photo | <input type="checkbox"/> Copy of suspect driver's license |
| <input type="checkbox"/> Copy of membership card records | <input type="checkbox"/> Copy of check cashing card |
| <input type="checkbox"/> Copy of cashing card records | |

Bank, Citizen and Merchant

PLEASE OUTLINE below everything that was discussed and the details about the transaction. (Include, as close to verbatim as possible, what each person stated/asked/answered)

I certify this statement is true and correct to the best of my knowledge.

Signature of affiant: _____

SWORN TO AND SUBSCRIBED before me, this _____ day of _____, A.D. _____, by the Affiant herein,

who is personally known to me who produced the following identification: _____

- _____ -
- _____ -

Notary Public, State of Florida (Seal)

Commission Expires



A F F I D A V I T

(Please PRINT all information except signature)

Suspect's Name: _____ Police Agency Offense Report #: _____

State Attorney Office: Central North South West

STATE OF FLORIDA)

COUNTY OF BROWARD) ss:

PERSONALLY APPEARED BEFORE ME, the undersigned authority duly authorized to administer oaths and take acknowledgments, the AFFIANT herein, who, after having been duly sworn, deposes and says:

- 1. AFFIANT Name _____
- 2. AFFIANT Address _____

3. On _____, the ____ day of _____, A.D. 20 ____, in Broward County, Florida:

(If continued on second page, check here and sign below and on second page)

AFFIANT SIGNATURE

SWORN TO AND SUBSCRIBED before me, this _____ day of _____, A.D. _____, by the Affiant herein,

who is personally known to me who produced the following identification: _____

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-

Notary Public, State of Florida (Seal)

Commission Expires